

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 93-0580 CSET

**CONTROLLED SUBSTANCE EXCISE TAX
FOR TAX PERIODS: 1993**

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ISSUE

1. CONTROLLED SUBSTANCE EXCISE TAX: IMPOSITION

Authority: IC 6-7-3-5

Taxpayer protests the assessment of Controlled Substance Excise Tax.

STATEMENT OF FACTS

Taxpayer was arrested for possession of marijuana. The Indiana Department of Revenue issued a record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on June 22, 1993 in a base tax amount of \$17,352.00. Taxpayer filed a protest to the assessment. A hearing was held by telephone on December 10, 1998. Further facts will be provided as necessary.

Controlled Substance Excise Tax-Imposition

Discussion

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the possession of marijuana in the State of Indiana. Taxpayer owns and operates a large truck stop and truck terminal with a very large parking and freight loading area. Truckers often transfer freight at Taxpayer's facility. Truckers also often drop trailers to be loaded and picked up later. Taxpayer also rents spots to truckers. On June 8, 1993, officers from an Indiana county police department joined a Norfolk Southern railway detective in searching for property stolen from a Norfolk Southern railway service truck. A small refrigerated trailer was located lying next to the building. This trailer was not on a truck frame and had a padlock on the door. Taxpayer rented the real estate that the trailer was on to an individual for one hundred dollars (\$100.00) a month and did not know what was in it. Detectives then removed the padlock and located a hydroponics marijuana growing operation. Taxpayer was not the person possessing the marijuana.

Finding

Taxpayer's protest is sustained.